

Report of the Monitoring Officer

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1. Summary

1.1. This report covers:

- a review of the Council's standards arrangements as discussed initially at the last meeting of the Committee in October 2016
- a review of the recent Hearing Panel process to get feedback from Committee members concerned and the Independent Person involved to see whether any amendments are required to the process
- induction and training plans on conduct issues for members of the new Council
- a verbal update on complaints dealt with since the last meeting of the Committee.

2. Recommendations

2.1. The Committee is invited to:

Review of standards arrangements

Following consideration of the issues in this report, decide whether it wishes to reaffirm the following recommendations to the new Council for consideration after May 2017:

- **To support the option of amalgamating the Standards and Constitution Committees into a single committee.**
- **To recommend that the new combined committee should include co-opted members and that the political balance rules should be waived, as with the current Standards Committee.**

Hearing Panel

Consider and comment on the recent process.

Member Induction and Training

Consider and comment on the plans for member induction and training set out in the report.

3. Background

3.1 Review of standards arrangements

3.1.1 At its last meeting the Committee started to consider the future standards arrangements for the Council. This review was timely given that the Council to be elected in May 2017 will review the Constitution and consider whether any amendments are required to the democratic arrangements of the Council. The Committee's discussion last time focused on:

- The Council's decision to retain a Standards Committee with co-opted members within its membership following the fundamental changes to the relevant legislation in 2011.
- The continuing silence from the government in response to a growing number of representations from many council's for a review of the legislative requirements in respect of member conduct.
- The current legislative requirements which no longer require councils to maintain a separate standards committee but require the appointment of at least 1 'independent person' to advise the Monitoring Officer and the Council in respect of member complaints
- Where a council chooses to retain a standards committee as an 'ordinary' committee of the Council, the reduced status of co-opted members retained on the committee.
- Also the elected membership of a Standards Committee (as an 'ordinary' committee of the Council) is required to represent the political balance of the Council unless all councillors agree otherwise.
- The restricted sanctions now available to the Council for confirmed breaches of the Code.

3.1.2 Having considered the issues the Committee's conclusions as recorded in the minutes of the last meeting were:

Following further discussion, the Committee:

- accepted the principles set out in the Monitoring Officer's report and unanimously supported the option of amalgamating the Standards and Constitution Committees
- requested that the new combined committee should include co-opted members and that the political balance rules should be waived, as with the current Standards committee
- asked the Monitoring Officer to prepare a full set of recommendations for the next meeting, following consultation with the current Constitution Committee and research on models used by other authorities.

3.1.3 The Constitution Committee considered the issue at its meeting on and agreed to approve, in principle, the proposed amalgamation of the Standards and Constitution Committees to form a single Constitution and Governance Committee for recommendation to the new Council in May 2017. Principles to be applied to the proposed amalgamation were:

- Strict political balance was not required to applied to the elected membership of the Committee but that an appropriate level of representation should be given to the political groups according to their size whilst keeping

the overall membership manageable

- Membership of the new committee should include the current co-opted members of the Standards Committee as non-voting members,
- The Chairman of the new committee should be appointed by the Committee itself.

3.1.4 The support of the Constitution Committee to a combined committee was an important step in this process of making recommendations to the new Council. The membership of such a committee is an important matter of detail that the Committee need to discuss today and reach a view on given the views of the Constitution Committee outlined above.

3.1.5 My assessment of other councils' arrangements has focused on County Councils because of the similarity of the arrangements at that level. Both District Councils and Unitary Authorities have slightly different responsibilities as they have responsibility for town and parish council councillor conduct as well as their own district councillors. Having said that there is interest within some of the Somerset Districts in our work on this issue and the Monitoring Officers continue to meet on a regular basis to discuss matters of mutual interest.

3.1.6 I will go into more detail at the meeting itself but my summary assessment of other County Council arrangements leads me to the following observations:

1. Whereas pre the legislative changes in 2011 council arrangements will have been broadly similar and based on the statutory requirement to have a standards committee, there are now a variety of approaches designed to meet local requirements and structures. This reflects the position in Somerset where different approaches have emerged
2. Councils have retained elected member involvement in standards issues in a variety of ways. This is almost a 'given' for me given the common approach of 'hearing panel' arrangements to deal with serious alleged breaches.
3. The variety of approaches can be summarised under the following headings
 - Retain a separate Standards Committee. Some councils' have retained a separate Committee but only in a minority of cases are these meeting on a regular basis and these tend to have a wider range of corporate responsibilities than is the case with our Committee. Examples include responsibility for Council complaints and compliments – where the committee receives summary reports on a regular basis, wide responsibility for officer conduct, and responsibility for considering internal and external audit reports. Some councils who have retained separate committees are clearly suffering the same problem as we are and they are either not meeting very often – 2 to 3 meetings a year is not unusual – or they are showing numbers of cancelled meetings suggesting that there is a limited amount of business to be considered.
 - Amalgamate 'standards' business with wider constitutional considerations or audit considerations in a single committee. This replicates to an extent the conclusions reached so far by this Committee and the Constitution Committee that combining the functions of the Constitution and Standards Committees is a sensible way forward given the compatibility of the business covered by the separate committees. To give two examples, until 2016 Dorset County Council had a Standards and Governance Committee where the primary focus was on standards issues but the responsibilities were widened to include oversight and encouragement of

good governance. This included advising the Council on changes required to the Constitution and not just on members' conduct issues. This committee included co-opted members. Latterly, though they have moved to a new committee arrangement and an Audit and Governance Committee made up of just elected members and which spans the functions of our Audit, Standards and Constitution Committees. Where a hearing panel is required to deal with a complaint against a member then a Sub-Committee is selected from the members of the Committee to consider and determine the complaint. Cambridgeshire County Council has a Constitution and Ethics Committee which seems to cover the functions that were proposed for a combined committee here in the previous discussions.

- Bringing standards committee functions together with Audit Committee functions is an approach used by some council's such as Dorset because of the common 'governance' focus. This is potentially an option open for SCC although would present practical difficulties given the way the Audit Committee operates currently - see below.

3.1.7 The 'expanded' Audit Committee option

On the face of it the Audit, Constitution and Standards Committees cover common ground to the extent that they have the good governance of the Council as their central focus. The Audit Committee is one of the 'main committees' of the Council and has an expansive remit which focuses on ensuring that the Council operates within a framework of robust governance, risk management and control. This framework seeks to ensure that service delivery is strong; that it delivers value for money; and that it safeguards public funds. The specific functions of the Committee as detailed in the Constitution are as follows:

The Committee:

- (a) Approves (but not directs) internal audit's strategy, plan and performance;
- (b) Reviews summary internal audit reports and the main issues arising, and seeks assurance that action has been taken where necessary;
- (c) Considers the reports of external audit and inspection agencies;
- (d) Ensures that the Council's assurance statements, including the Annual Governance Statement, properly reflect the risk environment and any actions required to improve it;
- (e) Ensures that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process and effective financial governance is actively promoted;
- (f) Reviews the financial statements, external auditor's opinion and reports to Members, and monitors management action in response to the issues raised by external audit.
- (g) Approves the annual accounts of the Council and the Annual Governance Statement, together with considering the Matters Arising from the Accounts Audit.

- ### **3.1.8** The Audit Committee is already a very busy committee meeting at least 8 times a year to cope with its wide governance business remit as set out above. It has a heavy audit focus and my concern with the option of further expanding its remit to deal with Standards and / or Constitution Committee matters is that these would be lost within the list of functions and we would risk losing the ability to focus on the detail of the standards and constitutional arrangements. Also and on a practical basis the Committee's ambition to retain the input of co-opted members could be compromised as this would expand their remit considerably

outside of the reasons for their appointment and the Audit Committee is one of the largest committees on the Council currently with 9 elected members appointed in accordance with the political balance of the Council. Therefore, although there is some logic in combining all governance functions in a single committee from the business perspective the practicalities to doing so work against the idea in my opinion. The Committee will need to discuss this aspect before deciding whether to confirm the recommendations from the October 2016 meeting. If there was an appetite to progress this option then the views of the Audit Committee should be sought.

3.1.9 Following consideration of the issues the Committee will need to decide whether is confirm or amends its recommendations from the October 2016 meeting as set out in 3.1.2 above.

3.2 Hearing Panel considerations

3.2.1 Members will be aware of the recent hearing panel process dealt with by way of written representations. The comments of the Committee members and the Independent Person are invited on the process and any 'learning points' arising. This includes whether any amendments are required to the process.

3.3 Member induction and training on Code of Conduct issues

3.3.1 Plans are being made for member induction and training following the Council elections. The Committee rightly should have an overview of the plans and have the chance to comment and steer as necessary.

3.3.2 The induction of members of the new Council is always a challenge in terms of the need to impart a lot of information in a short space of time to enable members, particularly those newly elected to the Council, to get up to speed with the role as quickly as possible. The immediate priority following election is to sort out the necessary paperwork so that they can get on with the job. A welcome day event is planned for the 9th May to focus on these immediate requirements. The key paperwork in relation to Code of Conduct requirements at this stage is the registration of interests by members which has to be done within 28 days of election. This includes the critical registration of Disclosable Pecuniary Interests. They are also required to sign the Declaration of Acceptance of Office which includes their commitment to abide by the Code of Conduct. Without signing this they are not able to operate as a councillor. We considered whether to try and run a full Code of Conduct session on that day for newly elected members but the view of officers is that this would be too much on this day which is intended to be relatively light touch and informal. The plan instead is to:

- Within the letter welcoming successful candidates which they will receive at the election count, stress the need for them to be aware of the contents of the Code of Conduct prior to them signing the Declaration of Acceptance of Office.
- Also with the letter they will receive written guidance on the completion of the registration of interest requirements together with a form to complete. The existing guidance and form is attached as Appendix A to this report for comments by the Committee. It is designed to be user friendly and the form is similar to those used by the Somerset District Councils. The information registered by the members is public information and is

published on the website as well as held in hard copy on a register which is available for public inspection on request.

- On the Welcome Day we will be running ‘All your questions answered’ sessions focused on newly elected councillors but open to all which will include a ‘quick hit’ headlines session on the Code of Conduct and with a particular focus on the registration of interests as a ‘number 1 priority’. The general briefings will be followed on the Welcome Day by an opportunity for members to have a 1 on 1 discussion with an officer to get immediate clarification on any aspect of being a councillor including Code of Conduct issues and the registration of interests.
- After the Welcome Day event and as part of the wider induction programme we will run two opportunities for members to attend a dedicated Code of Conduct training session. The primary focus will be on those members who are new to the council but all will be encouraged to attend to refresh their knowledge. If members are unable to attend these sessions then we may add on smaller group briefings or 1 to 1 sessions as required. The basic training material in the form of a power-point is attached for comment as Appendix B to this report. This will be updated / refreshed before the 4th May so any comments are welcome.
- Beyond this priority training, the intention is to add further sessions to cover:
 - (a) Member / officer relations – with a particular focus on ‘behaviours’ as set out in various protocols in Part 2 of the Constitution. This includes the Member / Officer Protocol which focuses heavily on the need for mutual respect.
 - (b) Partnership working – to help members understand the different rules that they may encounter as members of partnerships or when appointed to outside bodies including the implications for member conduct.
 - (c) There will also be committee specific training for members appointed to committees. A good example is the Regulation Committee which deals with planning matters. As a matter of policy the Council will not allow a member to sit as a member or substitute member this Committee without having had relevant training. This is because of the high risk of legal challenge to the Committee’s decisions. The training will cover conduct issues including the rules around predetermination and bias.

The Committee’s comments on these plans including the contents of the Appendices are invited.

3.4 Member complaints

- 3.4.1** A verbal update will be given on complaints that have been resolved since the last meeting of the Committee.

4 Consultation

- 4.1** As described

5 Legal Implications

- 5.1** These are covered in the report

6 Equalities, Community Safety, Sustainability, Health & Wellbeing and Risk Implications

6.1 There are no implications identified under the headings of Equalities, Community Safety, Sustainability, Health & Wellbeing or Risk.

7. Background papers

7.1. None

Note: For sight of individual background papers please contact the report author.